

Appl. No. : 10/031,913  
Filed : May 21, 2002

### REMARKS

In response to the Office Action dated November 20, 2007, Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments. As a result of the amendments listed above, Claims 18-28 and 73-81 remain pending. Claims 18 and 73 have been amended.

In the changes made by the current amendment, ~~deletions are shown by strikethrough~~, and additions are underlined or enclosed in [[double brackets]].

#### Claims 18-28 and 73-81 Are Allowable Over Sharkawy

Claims 18-28 and 73-81 presently stand rejected under 35 U.S.C. § 102(b) or 103(a) as being anticipated by or unpatentable over Sharkawy. Applicants respectfully submit that the claims, as amended herein, are allowable over the Sharkawy reference, as well as the other prior art of record, alone or in combination.

The Examiner has interpreted the claimed "porous membrane" to include a material in which pores are created by mechanical means. Accordingly, the Examiner has rejected the pending claims on the basis of Sharkawy, which discloses a catheter having inner and outer tubes, the outer of which defines a plurality of rectangular fluid exit holes that increase in size along the length of the catheter.

In response, Applicants have amended the pending claims to clarify that the porous membrane is constructed of a material that becomes saturated with a fluid introduced into the lumen of the catheter. The fluid then exits the catheter through the porous membrane at a rate determined by the rate of diffusion of the fluid through the porous membrane.

Such a catheter is not disclosed or suggested by the Sharkawy reference alone, or in combination with the other prior art of record. Although the Sharkawy reference may use different materials for the inner and outer tubes, it is the increasing size of the exits holes that provide a uniform fluid flow over the catheter length in Sharkawy. Therefore, it would not have been obvious to one of skill in the art to replace the outer tube, with distinct exit holes, with a porous membrane formed of a material that becomes saturated with a fluid introduced into the catheter. To do so would change the entire principle of operation of the Sharkawy catheter. For at least these reasons, Applicants submit that amended Claims 18 and 73 are in condition for

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allowance. Claims 19-28 and 74-81 are allowable not only because they depend from an allowable claim, but upon their own merit as well.

#### CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney, Curtiss C. Dosier at (949) 721-7613 (direct line), to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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By: 

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